

By: Ortega

H.B. No. 118

A BILL TO BE ENTITLED

AN ACT

relating to requiring a national instant criminal background check in connection with private firearm transfers; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Business & Commerce Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. REGULATION OF PRIVATE FIREARM TRANSFERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 205.001. DEFINITIONS. In this chapter:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(2) "Licensed firearms dealer" means a person who is licensed as a firearms dealer under 18 U.S.C. Section 923.

(3) "Peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

SUBCHAPTER B. REGULATION OF PRIVATE FIREARM TRANSFERS

Sec. 205.051. REQUIREMENTS FOR PRIVATE FIREARM TRANSFER; OFFENSE. (a) A person may not sell or otherwise transfer a firearm to another person unless:

(1) the person is a licensed firearms dealer; or

(2) the person is not a licensed firearms dealer, and:

(A) the person sells or transfers the firearm to a licensed firearms dealer, a peace officer, a law enforcement

1 agency, or a person licensed to carry a handgun under Subchapter H,  
2 Chapter 411, Government Code;

3 (B) the transferor and the transferee are related  
4 within the third degree by consanguinity or within the second  
5 degree by affinity as determined under Chapter 573, Government  
6 Code; or

7 (C) before delivering the firearm to the person  
8 to whom the firearm is being sold or transferred, the person selling  
9 or transferring the firearm requests that a licensed firearms  
10 dealer conduct, in the manner required by 18 U.S.C. Section 922, a  
11 national instant criminal background check to verify that the  
12 person to whom the firearm is being sold or transferred may lawfully  
13 possess a firearm.

14 (b) A person who violates this section commits an offense.  
15 An offense under this section is a Class B misdemeanor. Each firearm  
16 sold or transferred in violation of this section constitutes a  
17 separate offense.

18 Sec. 205.052. DUTIES OF LICENSED FIREARMS DEALER. (a) If a  
19 licensed firearms dealer receives a request to conduct a national  
20 instant criminal background check under Section 205.051(a)(2)(C),  
21 the dealer shall:

22 (1) in the manner required by 18 U.S.C. Section 922,  
23 conduct the criminal background check to verify that the person to  
24 whom the firearm is being sold or transferred may lawfully possess a  
25 firearm; and

26 (2) notify the person who is selling or transferring  
27 the firearm of the results of the criminal background check.

1        (b) A licensed firearms dealer who performs a national  
2 instant criminal background check under this section may collect a  
3 reasonable fee from the person who requests the criminal background  
4 check.

5        SECTION 2. This Act takes effect September 1, 2021.